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Proposal: Prohibition on Funding of Unlawful Internet Gambling

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November 22, 2007 Jennifer J. Johnson Secretary, Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, N.W. Washington, DC 20551 Dear Secretary Johnson: I am writing in regard to the proposed regulations (Docket No. R-1298) implementing the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). It appears that the regulations as written would likely lead to overblocking of legal transactions, as was acknowledged by the authors of the regulations. This overblocking would result in federal usurpation of the right of the states to control gaming within their borders. As such, I ask that the regulations be modified to eliminate this unintended consequence of this legislation. During the November 14th House Judiciary Committee's Hearing on Establishing Consistent Enforcement Policies in the Context of Online Wagers, UIGEA proponent Rep. Bob Goodlatte (R-VA) stated that he favors leaving gaming law under the purview of the states. He said (while addressing the issue of Internet poker): "That is the whole point of the legislation that was passed, to enable individual states to enforce their laws regarding the laws that they have in those states." It is clear that UIGEA was intended only to enforce existing federal and state laws, not to create a federal prohibition on Internet poker and other online non-sports gaming via ambiguous regulations. Unfortunately, the regulations as written do not give sufficient direction to financial institutions as to the types of transactions they are to prohibit. As a result, banks will likely block legal transactions. A primary problem area is interstate Internet poker. Federal case law is relatively clear in this matter – per appeals court decisions in re MasterCard International Inc. and other cases, the Wire Act covers only sports betting. There is no other federal law banning interstate Internet poker. At the state level, only a handful of states prohibit Internet poker. As such, the regulations should be careful to not impact Internet poker in states that have chosen to not pass laws prohibiting its residents from playing Internet poker. To preserve the rights of the

states to determine what gaming they wish to permit within their states, I ask that the regulations specify that state laws enforced by UIGEA must be unambiguous in their application to the Internet and to the specific types of gaming banned by that state. Additionally, states desiring federal assistance in enforcing Internet gaming restrictions should be required to request this assistance in writing from the Secretary of the Treasury. Our financial institutions deserve to know exactly what they are required to prevent, and our states should continue to have the right to choose what types of gaming they permit within their borders. Thank you for your consideration. Sincerely, Richard Muny